

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

205

FAO-4570-2018 (O&M)

Date of decision: 07.12.2021

Samina and ors.

..Appellants

Versus

Monu Singh and ors.

..Respondents

FAO-2676-2019 (O&M)

New India Assurance Co. Ltd.

..Appellant

Versus

Samina and ors.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashish Gupta, Advocate
for the claimants.

Mr. Paul S. Saini, Advocate and
Mr. Vipul Sharma, Advocate
for the Insurance Co.

ANIL KSHETARPAL, J (Oral)

CM No.9013-CII of 2019 in FAO No.2676 of 2019

For the reasons stated in the application, the same is allowed.

The delay of 239 days in filing the appeal is condoned.

Main Cases

This order shall dispose of FAO No.4570 of 2018 and 2676 of
2019 which arise from a common award passed by the Motor Accidents
Claims Tribunal, Mewat.

One appeal has been filed by the Insurance Company whereas the other has been filed by the claimants.

The correctness of the findings of the Tribunal with regard to involvement of the vehicle and rash and negligent driving of Monu Singh are not being questioned.

Learned counsel representing the Insurance Company contends that the insurance policy stood cancelled on dishonor of the cheque for the payment of the premium, therefore, the insurance company could not be made liable as offending truck No.HR-38-W-7764 was not insured on the day of the accident. The Tribunal has examined the aforesaid issue and held that the Insurance Company failed to prove that the insurance policy was cancelled. Learned counsel representing the Insurance Company has failed to draw the attention of the Court to any substantive evidence to prove that the findings of the Tribunal, on this aspect, suffer from an any error. In fact, no evidence by the Insurance Company has been led to prove the cancellation was communicated to the owner. Hence, there is no substance in the appeal filed by the Insurance Company.

In FAO No.4570 of 2018, the claimants pray for modification of the award awarded by the Tribunal. Sh. Jameel Ahmed, lost his precious life in an automobile accident which occurred on 08.02.2017. He was 33 years of age at the time of accident. The Tribunal, while assessing the compensation,

has assessed the amount on the basis of minimum wages payable in the State as the claimants failed to prove the income of the deceased. Learned counsel, for the claimants, does not dispute its correctness. However, he submits that the Tribunal has erred in multiplying the amount representing future prospects by 10 only whereas with respect to the income, the multiplier of 16 has been applied. He further submits that late Sh. Jameel Ahmed has left behind widow, four minor children and aged parents. He submits that in view of the judgment passed in **Magma General Insurance Co. Ltd. Vs. Nanu Ram @ Chuhru Ram and others, 2018(4) RCR (Civil) 333** which has been reiterated by a Larger Bench in **United India Assurance Co. Ltd. vs. Satinder Kaur @ Satwinder Kaur and ors., (2020) SCC Online SC 410**, the dependents are entitled to filial and parental consortium apart from spousal consortium. He submits that the parents as well as the children are entitled to loss of consortium @ Rs.40,000/- each whereas the Tribunal has awarded Rs.40,000/- in total.

Learned counsel for the Insurance Company contends that in view of the judgment passed by the 5 Judge Bench in **National Insurance Company Limited Vs. Pranay Sethi and Ors., 2017 SCC 1270**, the maximum amount payable under the head of loss of consortium is Rs.40,000/-.

It may be noted here that the Hon'ble Supreme Court while

deciding the case of **Magma General Insurance Co. Ltd. (supra)** and **Satinder Kaur @ Satwinder Kaur (supra)** has noticed the judgment passed by the 5 Judge Bench in **Pranay Sethi and others (supra)** and awarded the loss of consortium to children and parents apart from the amount to the widow as loss of spousal consortium.

In view thereof, the amount of compensation is re-worked as under:-

1	Income	Rs.8000/- per month
2	Future prospects	40%
3	Multiplier	16
4	Deduction qua personal expenses	1/4 th
5	Loss of dependency	Rs.16,12,800/-
6	Spousal consortium	Rs.40,000/-
7	Parental consortium	Rs.1,60,000/- (40,000 each)
8	Filial consortium	Rs.80,000/- (40,000 each)
9	Funeral expenses	Rs.15,000/-
10	Loss of estate	Rs.15,000/-
	Total:	Rs.19,22,800/-

Disposed of.

The amount of compensation shall be paid in the same proportion along with the same rate of interest as ordered by the Tribunal.

All the pending miscellaneous application(s), if any, are also disposed of.

07.12.2021

(ANIL KSHETARPAL)

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JUDGE